



## **ENVIRONMENTAL PROTECTION AGENCY**

**[FRL-SAN 9599-01-R1]**

### **Notice of Availability of Draft NPDES General Permits for Dewatering and Remediation Activity Discharges in Massachusetts and New Hampshire, Federal Facilities in Vermont, and Indian Country in Connecticut and Rhode Island: The Dewatering and Remediation General Permit**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Availability of DRAFT NPDES General Permits MAG910000, NHG910000, VTG910000, CTG910000, and RIG910000.

**SUMMARY:** The Director of the Water Division, U.S. Environmental Protection Agency – Region 1 (EPA), is providing a notice of availability of draft National Pollutant Discharge Elimination System (NPDES) general permits for discharges from sites engaged in certain dewatering and remediation activities to certain waters in the Commonwealth of Massachusetts and the State of New Hampshire, sites in Connecticut and Rhode Island located on Indian Country lands, and federal facilities in Vermont. The draft NPDES general permits establish electronic Notice of Intent (NOI), Change Notice of Intent (CNOI), and Notice of Termination (NOT) requirements, discharge limitations and requirements, standard and special conditions, and best management practice (BMP) requirements for sites that discharge 1.0 million gallons per day or less. These general permits replace the Dewatering General Permit (DGP) that expired on April 24, 2020, and the Remediation General Permit (RGP) that expires on April 8, 2022. The Draft General Permit is available on EPA Region 1’s website. The fact sheet for the draft general permit sets forth principal facts and the significant factual, legal, methodological, and policy questions considered in the development of the draft general permit and is also available at this website.

**DATES:** Comment on the draft general permits must be received on or before **[INSERT**

**DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

**ADDRESSES:** Comments on the draft DRGP shall be submitted by one of the following methods: 1) Email: [little.shauna@epa.gov](mailto:little.shauna@epa.gov); or 2) Hard Copy: U.S. EPA Region 1, Attn: Shauna Little, 5 Post Office Square, Suite 100, Mail Code OEP06-4, Boston, MA 02109-3912. Due to the COVID-19 National Emergency, if comments are submitted in hard copy form, please also email a copy to the EPA contact above.

**FOR FURTHER INFORMATION CONTACT:** Additional information concerning the draft general permits may be obtained between the hours of 9 a.m. and 5 p.m. Monday through Friday, excluding holidays, from Shauna Little, U.S. EPA Region 1, 5 Post Office Square, Suite 100, Mail Code 06-4, Boston, MA 02109-3912; telephone: 617-918-1989; email: [little.shauna@epa.gov](mailto:little.shauna@epa.gov). Following U.S. Centers for Disease Control and Prevention (CDC) and U.S. Office of Personnel Management (OPM) guidance and specific state guidelines impacting our regional offices, EPA's workforce has been directed to telework to help prevent transmission of the coronavirus. While in this workforce telework status, there are practical limitations on the ability of Agency personnel to allow the public to review the administrative record in person at the EPA Boston office. However, any electronically available documents that are part of the administrative record can be requested from the EPA contact above.

**SUPPLEMENTAL INFORMATION:**

*General Information:* EPA is proposing to reissue two general permits for discharges from sites engaged in four types of dewatering and remediation activities: 1) Site remediation; 2) Site dewatering; 3) Infrastructure dewatering/remediation; and 4) Material dewatering for four types of wastewaters: 1) Groundwater; 2) Stormwater; 3) Potable water; and 4) Surface water. While the draft general permits were two distinct permits, because of the similarities in both activities and wastewaters, EPA has combined them together in a single document and has provided a single fact sheet. This document refers to the draft general "permit" in the singular.

The draft general permit includes effluent limitations and requirements based on technology-based considerations, best professional judgment (BPJ), and water quality considerations. The effluent limits established in the draft general permit assure that the surface water quality standards of the receiving water(s) are attained and/or maintained. The permit also contains BMP requirements in order to ensure EPA has the information necessary to ensure compliance and to ensure discharges meet water quality standards.

*Obtaining Authorization:* To obtain authorization to discharge, operators must submit a complete and accurate NOI containing the information described in the draft general permit using EPA's NPDES eReporting Tool (NeT) to electronically prepare and submit the e-NOI for coverage under the DRGP, unless an operator requests and receives a waiver from EPA Region 1. Operators with existing discharges must submit a NOI within 90 days of the effective date of the final general permit. Operators with new discharges must submit a NOI at least 30 days prior to initiating discharges and following the effective date of the final general permit. The effective date of the final general permit will be specified in the Federal Register publication of the Notice of Availability of the final permit. Operators must meet the eligibility requirements of the general permit prior to submission of a NOI. An operator will be authorized to discharge under the general permit upon receipt of written notice from EPA. EPA will authorize the discharge 30 days following submission of a NOI, unless additional information is requested, which will place the 30 day period on hold. If an operator is required to apply for an alternative permit or an individual permit, EPA will inform the operator in writing.

*Other Legal Requirements:* Endangered Species Act (ESA): In accordance with the ESA, EPA has updated the provisions and necessary actions and documentation related to potential impacts to endangered species from sites seeking coverage under the draft general permit. Concurrently with the public notice of the draft general permit, EPA will initiate an informal consultation with the National Oceanic and Atmospheric Administration, National Marine

Fisheries Service (NOAA Fisheries) under ESA section 7, through the submission of a letter and biological assessment (BA) summarizing the results of EPA's assessment of the potential effects to endangered and threatened species and their critical habitats under NOAA Fisheries jurisdiction as a result of EPA's issuance of the draft general permit. In this document, EPA has made a preliminary determination that the proposed issuance of the draft general permit is not likely to adversely affect the shortnose sturgeon, Atlantic sturgeon, or designated critical habitat for Atlantic sturgeon, as well as coastal protected whales and sea turtles. EPA will request that NOAA Fisheries review this submittal and inform EPA whether it concurs with this preliminary finding.

In addition, EPA has concluded that the DRGP is consistent with activities analyzed in the USFWS January 5, 2016, Programmatic Biological Opinion (PBO) regarding the threatened northern long-eared bat.

Essential Fish Habitat (EFH): Under the 1996 Amendments (PL 104-267) to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq. (1998)), EPA is required to consult with NOAA Fisheries if EPA's actions or proposed actions that it funds, permits or undertakes "may adversely impact any essential fish habitat." 16 U.S.C. 1855(b). EPA has determined that the permit action may adversely affect the EFH of designated species. The draft general permit has been conditioned to minimize any impacts that reduce the quality and/or quantity of EFH. Additional mitigation is not warranted under Section 305(b)(2) of the Magnuson-Stevens Act. Concurrent with the public notice of the draft general permit, EPA will initiate consultation with NOAA Fisheries by providing this determination for their review.

National Historic Preservation Act (NHPA): Activities which adversely affect properties listed or eligible for listing in the National Registry of Historic Places under the NHPA are not authorized to discharge under the draft general permit. Operators must review all reasonable information to ensure that activities are not subject to this limitation on coverage and provide certification in the NOI submitted to EPA.

Coastal Zone Management Act (CZMA): The CZMA, 16 U.S.C. 1451 et seq., and its implementing regulations (15 CFR part 930) require a determination that any federally licensed activity affecting the coastal zone with an approved Coastal Zone Management Program (CZMP) is consistent with the CZMA. Concurrent with the public notice of the draft general permit, EPA will request that the Executive Office of Environmental Affairs, MA CZM, provide a consistency concurrence that the proposed draft general permit is consistent with the MA CZMPs.

AUTHORITY: This action is being taken under the Clean Water Act, 33 U.S.C. 1251 et seq.

**David Cash,**

*Regional Administrator,*

*EPA Region 1.*

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